IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23647 of 2004

Between:

S.Shaikshavali S/o.Mahaboob Basha
R/o.S.B.I. Colony Kurnool.

..... PETITIONER

AND

1 The Regional Transport Officer-Cum-Secretary, Regional Transport Office, Kurnool.
2 The Motor Vehicle Inspector Unit Office, Gadwal, Mahaboob Nagar (District).

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or order particularly in the nature of writ of Mandamus declaring the action of the Respondent in seizing and detaining the vehicle bearing No.ADQ 5671 detained under Vehicle Check Report bearing No.370603 dated: 7-10-2004 as illegal, arbitrary and consequently direct the Respondents to release the vehicle forthwith.

Counsel for the Petitioner: MR.K.MADHAVA REDDY

Counsel for the Respondents: GP FOR TRANSPORT

The Court, at the stage of admission, made the following :

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ORAL ORDER:

It is the case of the petitioner that his vehicle bearing No.ADQ 5671 was seized by the 2nd respondent vide Check Report No.370603, dated 7.10.2004 for violation of certain provisions of Motor Vehicles Act, 1988.

The learned counsel or the petitioner has contended that in spite of filing an application for grant of interim custody of the vehicle, the same has not been considered by the 1st respondent and therefore, he prays to grant interim custody of the vehicle.

On the other hand, the learned Government Pleader for Transport has opposed the same on the ground that the petitioner is liable to pay tax, and therefore, the interim custody of the vehicle cannot be given.

Whether the petitioner is liable to pay any tax, whether the petitioner has violated any provisions of the Motor Vehicles Act or not have to be decided by the competent authority after giving reasonable opportunity to the petitioner. Till then, it is not desirable to keep the vehicle idle exposing to sun and rain causing damage to the vehicle.

In the circumstances, the writ petition is allowed directing the respondents to grant custody of the vehicle to the petitioner on the following terms and conditions:

a. *that the petitioner shall produce the vehicle as and when required by the competent authority.*

b. *That the petitioner shall not alienate any part of the vehicle or transfer it to a third party.*

The petitioner is directed to pay the arrears of tax if any due, as on today and the same shall have to be adjusted in case the petitioner is found to pay tax by the competent authority in the enquiry. There shall be no order as to costs.

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(K.C. BHANU, J.)

20th December, 2004.

bcj

To

1 The Regional Transport Officer-Cum-Secretary, Regional Transport Office, Kurnool.

2 The Motor Vehicle Inspector Unit Office, Gadwal, Mahaboob Nagar (District).

3 Two C.Cs. to the Government Pleader for Transport, High Court Buildings, Hyderabad (OUT)

4 Two C.D. copies.